

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

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| BENTON ROWLAND, Petitioner, vs. UNITED STATES OF AMERICA, Respondent. | 5:23-CV-05010-RAL ORDER GRANTING PETITIONER'S MOTION TO DISMISS |
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Petitioner Benton Rowland filed a motion for extension of time to file a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2255. United States of America v. Benton Rowland, 5:16-CR-50138-JLV, Docket 280. Because Rowland's motion for extension of time offered an allegation of the claim for relief which he intended to assert in his § 2255 petition, the Court liberally construed Rowland's motion to be a § 2255 motion. Doc. 2 at 3. The Court granted Rowland's motion for extension of time, ordered that a new § 2255 case captioned Benton Rowland, Petitioner v. United States of America, Respondent be opened, and ordered Rowland on or before June 26, 2023, to file an amended application on the form available from the Clerk of Court which complies with Rule 2 of the Rules Governing Section 2255 proceedings. Id. at 4. Rowland has not filed an amended application, and he now moves to voluntarily dismiss his application. Doc. 4. The Court has not ordered service pursuant to Rule 4 of the Rules Governing Section 2255 Proceedings for the United States District Courts, and the United States has not

responded to his initial motion. Thus, voluntarily dismissal without prejudice in accordance with Federal Rule of Civil Procedure 41(a)(1) is appropriate. It is

ORDERED that Rowland's Motion for Voluntary Dismissal, Doc. 4, is granted and that this case is closed.

DATED this 10th day of August, 2023.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "Roberto A. Lange", is written over a horizontal line.

ROBERTO A. LANGE
CHIEF JUDGE